IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SECOND DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO : 8345 of 2004

Between:

K.Srinivasa Rao, S/o.Sri K.Venkata Subba Rao,
R/o.Kushaiguda, RR Dist.

..... PETITIONER

AND

1 State Bank of India, Bheemadolu Branch, West Godavari District, rep. by its Branch Manager.
2 Debt Recovery Tribunal, at Isnar Khazana Towers, Visakhapatnam, rep.by its Presiding Officer.
3 Debts Recovery Appellate Tribunal at 4th floor, Indian Bank, Regional office Building, Ethiraj Salai, Chennai,

rep. by its Chairperson.
4 Recovery Officer, Debt Recovery Tribunal at Isnar Khazana Towers,Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue notice, call for records, quash and set-aside the order dated 08-04-2004 made in Miscellaneous Appeal No.61 of 2004 passed by the 3rd

Respondent confirming the order dated 20/10/2003, made in M.A.No.4/2003 in O.A.No.909/2002 and the ex parte order dated 12-12-2002 made in O.A.No. 909/2002, (both the orders passed by the 2nd respondent) as arbitrary, unjust and illegal apart from being violative of the principles of natural justice, the various provisions of Debts Due to Banks and Financial Institutions Act and the Rules made thereunder, Article 14, 19(1)(g) & 300-A of the Constitution of India and while holding that the petitioner is entitled not only to contest the claim of the 1st Respondent in O.A.No.909/2002 but also entitled to pursue his counter claim preferred against the 1st respondent along with the reply filed by him on 13-02-2003, registered as I.A.No.98/2003 in O.A.No.909/2002 and the petition filed thereof as an indigent person and to grant such other relief or the reliefs as the petitioner is found entitled to in law by issuance of writ more particularly a writ in the nature of writ of certiorari or any other appropriate writ or order or direction as the Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.CH.RAMESH BABU

Counsel for the Respondent No.1: Mr. M.Narender Reddy.

Counsel for the Respondents 2 to 4: MR.A.RAJA-SHEKAR REDDY (SC FOR CG)

The Court at the admission stage made the following :

ORAL ORDER :

(Per Hon'ble The Chief Justice)

...

1. Petitioner has questioned the order passed on 08.04.2004 by the Debts Recovery Appellate Tribunal at Chennai dismissing his Miscellaneous Appeal No.61 of 2004 and thereby affirming the order of the Debts Recovery Tribunal, Visakhapatnam, dated 20.10.2003 in M.A.No.4 of 2003 in O.A.No.909 of 2002. The Presiding Officer, Debts Recovery Tribunal dismissed petitioner's application for setting aside ex parte order dated 12.12.2002 made in O.A.No.909 of 2002 in a lengthy and detailed order running into 21 pages, finally concluded as follows:

"In this case, the facts and circumstances clearly show that the

principles of natural justice has been followed and only the petitioner is making mockery of the situation and the rules and procedure. On mere technicalities, he cannot make mockery of things by alleging violation of principles of natural justice. The principles of natural justice cannot be put in straight jacket. When he knows that his rights are going to be affected in this OA he should have been more cautious and diligent. We cannot presume his diligence by simply accepting his allegations without any proof. Particularly when there is nothing to show on record that he informed the bank about the change of address. The fact that he obtained huge loan from the bank and allegedly shifted his residence to Hyderabad shows that he wants to keep himself out of reach. I am convinced that petitioner has not shown any sufficient cause or reason which prevented him from appearing before this Tribunal and contesting this OA. There is no reason why he did not appear or contest the OA particularly when he had absolute knowledge about the pendency of OA in this Tribunal".

2. Appeal of the petitioner was also dismissed by the Debts Recovery Appellate Tribunal at Chennai after hearing parties. The Appellate Tribunal also noticed the fact that the appellant had failed to comply with the directions of this court and stay was granted in his favour subject to the conditions and he failed to comply the conditions. The Appellate Tribunal observed that the petitioner only wants to drag on the proceedings without getting on with the case and that there are no sufficient grounds made out to set aside the order.

3. Having heard learned counsel for the petitioner, we do not find any ground to interfere with the two orders passed by the authorities inasmuch as the orders were passed after hearing the counsel for the petitioner and noting down all the contentions. We cannot sit as a Court of appeal over the two orders since we find that the conclusions arrived at by the two authorities are the plausible one which can be arrived at on the facts of the case. Accordingly the Writ Petition is dismissed. No costs.

_____

DEVINDER GUPTA, C.J.,

_____

C.V.RAMULU. J.,

Dt: 02.08.2004.

DRK.

1 The Presiding Officer, Debts Recovery Tribunal, at Isnar Khazana Towers, Visakhapatnam.

2 The Presiding Officer, Debts Recovery Appellate Tribunal at 4th floor, Indian Bank, Regional office Building, Ethiraj Salai,
Chennai.

3 Recovery Officer, Debt Recovery Tribunal at Isnar Khazana Towers,Visakhapatnam.

4. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE C.V. RAMULU.

W.P.NO. 8345 OF 2004.

-

(Order of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 02.08.2004.

-